

**UNITED STATES STRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

HORNBEAM SPECIAL
SITUATIONS LLC, *et al.*,

Defendants.

CASE NO. 1:17-cv-03094-WMR

EDP PARTIES' MOTION FOR SUMMARY JUDGMENT

Pursuant to FRCP 56 and Local Rule 56.1, Defendants Dale Paul Cleveland (“Cleveland”), William R. Wilson (“Wilson”), and EDebitPay, LLC (“EDebitPay,” and together with Cleveland and Wilson, the “EDP Parties”), hereby move for summary judgment on all claims asserted against them by Plaintiff Federal Trade Commission.

Each of the FTC’s claims against the EDP Parties is based on the fundamental factual assertion that the EDP Parties debited consumer accounts for the Saving Pays Club and Money Plus Saver (collectively, the “Discount Club”) without authorization. The undisputed evidence, however, establishes that no customer was charged for the Discount Club without specifically selecting the program and explicitly authorizing the charges. Further, even there were factual disputes about whether consumers were charged without authorization, the remedies the FTC seeks — monetary and injunctive relief — are unavailable to it as a matter of law.

The EDP Parties are concurrently submitting a Memorandum of Law and a Statement of Undisputed Facts, containing the materials in the record, including depositions, documents, and interrogatory answers, the EDP Parties rely on in support of this Motion.

This 10th day of August 2021,

/s/ Caroline M. Gieser

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CERTIFICATION OF COMPLIANCE AS TO FONT SIZE

The undersigned counsel certifies that the foregoing pleading has been prepared with 14 point Times New Roman font, which is one of the fonts and point selections approved by the Court in LR 5.1C, NDGa.

/s/ Caroline M. Gieser

Caroline M. Gieser

CERTIFICATE OF SERVICE

I hereby certify that I have on this 10th day of August 2021, caused to be filed electronically via CM/ECF a true copy of the foregoing EDP PARTIES' MOTION FOR SUMMARY JUDGMENT in the United States District Court for the Northern District of Georgia. Notice of this filing will be sent to counsel of record at the email addresses registered by them with the Court by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

This 10th day of August 2021,

/s/ Caroline M. Gieser

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